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SUBJECT: SESSIONS 24-32: SADDAM TRIAL DEFENSE WITNESS
TESTIMONY, PERJURY

Classified By: Deputy Chief of Mission David M. Satterfield for reasons
1.4 (b) and (d).

¶1. (S) SUMMARY: From May 15-31, the Iraqi High Tribunal (IHT) heard testimony from defense witnesses for the eight defendants in the Ad-Dujayl trial. Amid concerns over testimony given by four defense witnesses, a hearing was held to assess perjury charges. The perjured witnesses revealed that they had been threatened into giving false testimony on behalf of Saddam Hussein, with one stating that defense witnesses were offered jobs, money, and safe passage to Syria in exchange for positive statements about Saddam. Proceedings are expected to continue for three days beginning June 12 to hear final defense witnesses, after which the trial will close and the court will recess to draft its Judgment. END SUMMARY.

DEFENSE WITNESS TESTIMONY

¶2. (SBU) Twenty-three defense witnesses testified on behalf of the four lower-ranking defendants: six testified for Muhammed Azzawi; seven testified for Ali Dayih Ali; and ten testified for Abdullah Kazim Roweed and his son, Muzhir Kazim Roweed. All 23 witnesses who testified for these four defendants were non-detained Iraqi civilians. Witnesses generally asserted that the defendants were lower-ranking officials in the Ba'ath Party who had no responsibility or involvement in the Ad-Dujayl reprisal. Other witnesses argued that some defendants were not in Ad-Dujayl at the time of the event.

¶3. (SBU) Four witnesses, all non-detained Iraqi civilians, testified on behalf of the former Chief of the Revolutionary Command Council Court ("RCCC"), Judge Awad Hamad Al-Bandar. Three of these witnesses had practiced as lawyers before the RCCC and challenged prosecution assertions regarding the RCCC's procedures. One witness had no information related to the Ad-Dujayl case, but he stated that that the RCCC did not try defendants in absentia, that defendants were always accorded representation, and that the RCCC did not convict minors.

¶4. (SBU) From May 22-31, seven witnesses testified on behalf of Barzan Al-Tikriti, four of whom had also testified on behalf of other defendants. Five of Barzan's witnesses were detained Iraqis and two were non-detained Iraqi civilians. In general, the witnesses contended that Barzan acted fairly and in the interests of Iraq's national security and that Barzan released detainees who were not involved in the assassination attempt against Saddam Hussein. One detained witness, Tariq Aziz, testified that that neither Saddam nor Barzan were guilty of any crime because Iraq had a right to punish those responsible for the failed assassination attempt

against Saddam.

¶ 15. (SBU) No witnesses testified exclusively for Taha Yasin Ramadan.

DEFENSE WITNESS TESTIMONY FOR SADDAM HUSSEIN

¶ 16. (SBU) Nineteen witnesses testified on behalf of Saddam Hussein during five sessions from May 22-31. Multiple witnesses stated that Saddam did not order the Ad-Dujayl orchards destroyed without compensation to the affected families. Several witnesses said that villagers were compensated generously for their losses no later than a year and a half after the incident. The decision to level the orchards was for economic development, witnesses testified, not in retaliation for the assassination attempt. At one point, however, Saddam himself rejected this line of testimony, stating that the orchards were destroyed in direct retaliation for the assassination attempt rather than for civic improvement.

¶ 17. (SBU) Other witnesses contended that there were no arbitrary arrests in Ad-Dujayl and that all those arrested were affiliated with the Dawa party. One witness testified that he explored the orchards after the failed assassination attempt and found large quantities of Iranian-made weapons in the area.

¶ 18. (SBU) One witness testified that he worked at Abu Ghraib Prison and that some of the 148 villagers allegedly executed as a result of the RCCC trial are alive. The witness produced a list of names that he purportedly had written himself. An argument ensued between the defense and the

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bench when the witness was asked to rewrite the list in the presence of the court, and the issue was left unresolved.

¶ 19. (SBU) Four witnesses claimed to have seen Prosecutor Ja'afar al-Musawi in Ad-Dujayl on July 8, 2004, at a celebration marking the failed assassination attempt against Saddam. Ja'afar denied this allegation and stated that he has never visited Ad-Dujayl. Defense attorney Kaleel al-Dolami announced that he had video verifying Ja'afar's presence at the celebration. On May 31, it was revealed that the person in the video was not Ja'afar, but rather a local villager (Abd al-Aziz Muhammad Bandr) who closely resembles the prosecutor.

¶ 10. (SBU) On May 31, a witness testified that he was brought to Prosecutor Ja'afar in April 2004 and asked to make false statements against Saddam. According to the witness, Ja'afar offered him \$500 to testify against Saddam. When Chief Judge Ra'ouf asked the witness if he was reciting memorized testimony, the witness responded that he was not. Ja'afar asserted that, over the previous two days (May 30-31), there had been "a fabricated" attack on the prosecution panel. Ja'afar demanded that the court lodge a complaint against this witness, who he says was taught what to say. In response to this and the revelation that Ja'afar was not the person in the video, Judge Ra'ouf ordered all four witnesses who attacked Prosecutor Ja'afar detained on suspicion of perjury.

DETAINMENT AND HEARING OF PERJURED WITNESSES

¶ 11. (S) The four witnesses whom the court detained were Mohammad A. Alwan, Khalid A. Mohammad, Khamees M. Theab, and Kareem Y. Matar. On June 2, Judge Ra'ouf agreed to release each witness on bail of fifteen million Iraqi dinars. That afternoon, IHT Police Captain Amar Jassem Hashem stated that one detained witness (Kareem Y. Matar) had informed him that

he had testified under duress and that another witness (Mohammad Alwan) had threatened to kill Kareem's family if he refused to testify on behalf of Saddam.

¶12. (S) The IHT decided to conduct a full investigative hearing into the perjury and duress allegations. Judge Basil presided over the hearing; Prosecutor Sammy served as the prosecutor; and IHT Defense Attorney Mazen represented the witnesses. Mohammad Alwan stated that all the witnesses who testified on behalf of Saddam Hussein had been coached, adding that (contrary to his testimony) he was not from Dujayl, had never traveled to Dujayl, and had never met Prosecutor Ja'afar. Alwan claimed that Saddam loyalists detained him and his family for seventeen days in Tikrit because he worked for an American security company. According to Alwan, those holding him would have executed his family if he had not agreed to testify on behalf of Saddam.

¶13. (S) Alwan testified further that (after agreeing to testify) he and his family were taken to Damascus, Syria, where a former lieutenant of Saddam Hussein, Ahmed Al-Hadushi, held them. Alwan stated that a former Saddam bodyguard named Abu Omar provided him with written notes about what to say in court. Kaleel al-Dolami was present at this meeting, Alwan said, and told him to follow Abu Omar's instructions carefully or that his family would suffer. Alwan claimed that all of Saddam's witnesses had traveled to Damascus to receive similar instructions and that all of their testimony was also fabricated. Alwan added that all of Saddam's witnesses were promised jobs, money, and safe passage to Syria in exchange for saying something negative about Prosecutor Ja'afar and something positive about Saddam Hussein.

¶14. (S) Each of the other witnesses (Khalid A. Mohammad, Khamees M. Theab, and Kareem Y. Matar) echoed Mohammad Alwan's statement. They stated that they were transported to Syria and that Abu Omar and Kaleel Al-Dolami provided them with written instructions about what to say in court. Khalid A. Mohammad and Khamees M. Theab stated that al-Dolami provided each of them with a list of names and ordered them to claim in open court that the people listed are alive even though the RCCC had ordered them executed.

¶15. (S) The hearing concluded when each witness signed a written statement, which they reviewed and altered in the presence of their attorney, confessing to perjury. The notes that the witnesses had used at trial and their passports were copied by the IHT for use at a subsequent perjury trial and for the eventual Ad-Dujayl judgment.

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¶16. (S) On June 5, Judge Ra'ouf agreed to release the perjury defendants on bail of three million Iraqi dinars. All four witnesses were transported to an IHT safe house inside the International Zone to keep them separate from defense counsel. The four requested transport to Amman, Jordan, and (with the knowledge and consent of Judge Basil) they were taken June 8 to Baghdad International Airport and flown to Jordan.

NEXT SESSIONS: DEFENSE CASE NEARLY COMPLETE

¶17. (SBU) Proceedings are scheduled to reconvene on June 12 with witnesses for Barzan, Ramadan, and Awad Bandar scheduled to appear. Sessions are expected to be held for three days, which likely will mark the end of the defense case and the close of the evidentiary phase of the trial. Next, the court likely will schedule closing arguments and final statements from the defendants before adjourning for 30-90 days to deliberate and draft a written verdict and sentence.
KHALILZAD